

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PETRÓLEOS DE VENEZUELA, S.A., PDVSA
PETRÓLEO, S.A., and PDV HOLDING, INC.,

Plaintiffs and Counterclaim Defendants,

- against -

MUFG UNION BANK, N.A. and GLAS AMERICAS LLC,

Defendants and Counterclaim Plaintiffs.

No. 19 Civ. 10023 (KPF)

**SUPPLEMENTAL DECLARATION OF JONATHAN H. HURWITZ
IN SUPPORT OF DEFENDANTS' REPLY MEMORANDUM OF LAW
IN FURTHER SUPPORT OF THE MOTION TO MODIFY PARTIAL STAY**

JONATHAN H. HURWITZ declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney admitted to practice in this Court and a Counsel at the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul, Weiss"). Paul, Weiss is counsel for Defendants and Counterclaim Plaintiffs MUFG Union Bank, N.A. (the "Trustee") and GLAS Americas LLC (the "Collateral Agent") in their respective capacities as Trustee and Collateral Agent under the Indenture dated October 27, 2016 (the "Indenture"), and the Pledge and Security Agreement dated October 28, 2016 (the "Pledge Agreement"), both governing the Senior Secured Notes due 2020 (the "2020 Notes") issued by Petróleos de Venezuela, S.A ("PDVSA").

2. I submit this declaration and the following exhibits in support of the Trustee and the Collateral Agent's Reply Memorandum of Law in Further Support of the

Motion to Modify the Partial Stay. I previously submitted a declaration in support of the motion, docketed at ECF No. 255 (‘Opening Hurwitz Decl.’).

3. On August 2, 2023, I, along with Walter Rieman, another attorney from Paul, Weiss representing the Trustee and the Collateral Agent, participated in a telephone conference with counsel of record in this matter for PDVSA, PDVSA Petróleo, SA (“PDVSA Petróleo”), and PDV Holding, Inc. (“PDVH”; collectively, the “PDVSA Parties”). Counsel for the Trustee and the Collateral Agent stated that the Trustee and the Collateral Agent were willing to withdraw the Motion to Modify the Partial Stay if the PDVSA Parties agreed (i) to give the Trustee and the Collateral Agent 30 days’ prior notice of any non-ordinary course transaction or transaction that transfers assets to any creditor of PDVSA, PDVSA Petróleo, or the Bolivarian Republic of Venezuela; (ii) not to violate the anti-upstreaming provisions in sections 2.05(c) and (f) of the Pledge Agreement; and (iii) to provide information concerning any past transactions during the pendency of the partial stay of the kind specified in item (i). The attorneys for the PDVSA Parties stated that they would take this proposal back to their clients and get back to us. As of September 8, 2023, the PDVSA Parties have not responded to this proposal.

4. The Sale Procedures Order in *Crystallex International Corp. v. Bolivarian Republic of Venezuela*, Case No. 17-mc-00151-LPS (D. Del.), ECF No. 480-1 (“*Crystallex*”), provides that, within 10 calendar days of the launch of the process of selling shares PDVH, the court will determine which, if any, “Attached Judgments” are to be considered by the Special Master, such that the Attached Judgment creditors will be permitted to share in the proceeds of the sale. Opening Hurwitz Decl. Ex. 2, ¶ 30.

5. On August 8, 2023, pursuant to paragraph 32 of the Sale Procedures Order, and on the recommendation of the Special Master, Judge Leonard Stark ordered that any creditor seeking for its judgment to be considered an “Attached Judgment” was to file a statement summarizing its judgment and outstanding claim (“Attached Judgment Statements”). ECF No. 654 (oral order).

6. On July 27, 2023, Judge Stark issued an order stating that the court will set a deadline by which any creditor seeking to share in the proceeds from a sale of PDVH must obtain a conditional or unconditional writ of attachment, in order for the creditor’s judgment to be considered as a possible Attached Judgment. Attached hereto as Exhibit 24 is a true and correct copy of that order, filed in *Crystallex*, ECF No. 646.

7. Beginning August 14, 2023, creditors seeking recognition as Attached Judgment creditors filed Attached Judgment Statements with the court in *Crystallex*. Attached hereto as Exhibit 25 is a chart summarizing the Attached Judgment Statements that have been filed to date. True and correct copies of the Attached Judgment Statements obtained from the court’s docket are attached as Exhibits 26 through 47.

8. As indicated in Exhibit 25, certain creditors holding judgments against the Republic, PDVSA, or PDVSA Petróleo have obtained writs of attachment against shares of PDVH or have moved for the issuance of such writs. One creditor, Crystallex International Corporation, has obtained an unconditional writ of attachment on its approximately \$1 billion outstanding claim. Nine other creditors collectively seeking recovery of over \$5 billion have obtained “conditional” writs of attachment, which condition their attachment of shares of PDVH on the U.S. Office of Foreign Assets Control (“OFAC”) authorizing transactions in PDVH shares. Eleven additional creditors

seeking more than \$14 billion have moved for writs of attachment; those motions are pending. The identities of each of these creditors, the amounts of the judgments they hold, and other relevant information is set forth in Exhibit 25.

9. OFAC has stated that it “intends to implement a favorable licensing policy for license applications in connection with the execution of a sale as contemplated in the Sales Order or, as applicable, the negotiation of a settlement agreement among the relevant parties,” such that these conditional attachments could become final. *See* Opening Hurwitz Decl. Ex. 3. And on May 1, 2023, OFAC issued a license to the Clerk of the Court for the District of Delaware authorizing “issuance and serve of writs of attachment *feri facias* granted by the Court to judgment creditors against shares of PDVH Holding, Inc.” Attached hereto as Exhibit 52 is a true and correct copy of that license, filed in *Crystallex*, ECF No. 555.

10. Attached hereto as Exhibit 48 is a true and correct copy of a *Reuters* news article dated June 30 2023, available at <https://www.reuters.com/article/citgo-court-negotiations-idCAKBN2YG1A5>.

11. Attached hereto as Exhibit 49 is a true and correct copy of *The Wall Street Journal* news article dated December 20, 2023, available at <https://www.wsj.com/articles/venezuelas-u-s-backed-opposition-removes-juan-guaido-as-its-leader-11672441327>

12. Attached hereto as Exhibit 50 is a true and correct copy of the CITGO Annual Report from 2021, available at <https://www.citgo.com/getmedia/528fcc9b-b1a4-4d4b-b083-1f79ea9278ae/2021-CITGO-Annual-Report.pdf>.

13. Attached hereto as Exhibit 51 is a true and correct copy of the New York Court of Appeals argument schedule for November 2023, available at <https://www.nycourts.gov/ctapps/calendar/2023/monthly/Nov23fullcal.pdf>.

Executed on: September 8, 2023

New York, New York

s/ Jonathan H. Hurwitz
Jonathan H. Hurwitz